Cr. M. P. No. 1171 of 2003

Applications under Section 482 of the Code of Criminal Procedure, 1973

Brajesh Kumar Prasad, son of late Nand Kumar Prasad, General Manager (Marketing), Steel Authority of India Limited, Bokaro Steel Plant, residing at Sector I/C, Quarter No. 98, P.S. Bokaro Steel City, Bokaro

..... Petitioner

Versus

1. The State of Jharkhand
2. Shri Ashok Choudhary, son of Shri B. Choudhary, resident of 95, Co-operative Colony, P.S. Bokaro Steel City, District Bokaro

……. Opposite Parties

PRESENT
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

For the Petitioner : Mr. Indrajit Sinha, Advocate
For the State : Mrs. Sadhna Kumar, A.P.P.

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7. 28.01.2015 Heard Mr. Indrajit Sinha, learned counsel appearing on behalf of the petitioner and Mrs. Sadhna Kumar, learned counsel appearing on behalf of the State. No one appeared on behalf of the opposite party No. 2 insptie of valid service of notice.

In this application, the petitioner has prayed for quashing the entire criminal proceeding in connection with C.P. Case No. 317 of 2002 including the order dated 29.11.2002, whereby and whereunder, the learned Chief Judicial Magistrate, Bokaro has been pleased to take cognizance for the offence punishable u/s 342, 323 and 384 of the Indian Penal Code (IPC).

The prosecution story as would appear from the complaint case is that the complainant is a businessman dealing with purchase of steel from M/s. Bokaro Steel Plant and in course of business, the petitioner had taken friendly loan of Rs. 2 Lakhs, but inspite of repeated requests by the complainant, the payment was never made. On the other hand it has been alleged that the petitioner accused being the General Manager (Marketing), Steel Authority of India Ltd. (SAIL), Bokaro Steel Plant started making allegations against the firm of the complainant which was brought to the notice of the Managing Director of M/s. Bokaro Steel Plant on several occasions. It has also been alleged that the petitioner accused had threatened and assaulted the

complainant on the ground that the complainant had disclosed about the loan to several persons and had complained against the petitioner to the Managing Director of M/s. Bokaro Steel Plant.

After the complaint petition was filed, enquiry was conducted u/s 202 of the Code of Criminal Procedure (Cr.P.C.) by examining the complainant on solemn affirmation and his witnesses and thereafter vide order dated 29.11.2002 cognizance was taken by the learned Chief Judicial Magistrate, Bokaro against the accused persons for the offences punishable u/s 342, 323 and 384 IPC.

Learned counsel for the petitioner has assailed the impugned order taking cognizance by submitting that the learned court below did not properly consider the allegations levelled against the petitioner by the complainant and only in a mechanical manner the cognizance has been taken. He has further submitted that the petitioner has been made an accused only because of the fact that the petitioner was the then General Manager (Marketing), SAIL, Bokaro Steel Plant and admittedly the complainant was also dealing in purchase of steel from M/s. Bokaro Steel Plant through the Marketing Division and therefore on account of some disputes, the present complaint has been instituted. He has further submitted that the allegations levelled against the petitioner are false and concocted and only with a view to make out a case under the offences punishable u/s 342, 323 and 384 IPC, the complaint case has been instituted. He further submits that basically the criminal case has been instituted as an outcome with respect to the dispute in relation to a new system 'Medium Term Sales Arrangement' made by the company and which was opposed by the complainant and another person, namely, Harendra Singh who has been cited as a witness.

The learned counsel for the State on the other hand has submitted that the allegations made in the complaint petition do make out a case as against the petitioner and the claim of the petitioner that it was on account of a dispute with respect to floating a new scheme resulting in dispute with the petitioner and the complainant/ opposite party No. 2, the same cannot be looked into at this stage.

After hearing the learned counsel for the parties and after going through the records, I find that in the complaint petition there is a specific allegation against the petitioner of accepting Rs. 2 Lakhs from

the opposite party No. 2 as a friendly loan and on consistent demand on the part of the opposite party No. 2 to return the said loan, the petitioner in the capacity of General Manager, marketing Division, Bokaro Steel Plant started making allegations against the firm of the complainant. The complaint petition thus reveals an offence which is made out against the petitioner and the contention of the learned counsel for the petitioner that on account of a new system having been introduced, namely, Medium Term Sales Arrangement, the same was objected to by the opposite party No. 2 does not hold ground because at this stage while exercising the inherent powers u/s 482 Cr.P.C., the Court is not empowered to make a roving enquiry or a meticulous examination of the documents produced by the petitioner. Such plea can best be appreciated by the learned trial court as the documents which are relied upon by the petitioner are with respect to his defence, which this Court is not empowered to consider. For the present the allegations levelled in the complaint petition is sufficient to conclude that a prima facie case has been made out against the petitioner and no illegality or irregularity has been pointed out by the learned counsel for the petitioner so as to warrant interference in the criminal proceedings by this Court.

After giving my thoughtful consideration to the entire facts of the case and in view of what has been discussed above, I do not find any merit in this application and the same is hereby dismissed. However, the petitioner is at liberty to raise all the points before the learned trial court at the appropriate stage.

(Rongon Mukhopadhyay, J)

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